

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

WP(C).No. 7614 of 2007(F)

PETITIONER:

VARKEY, AGED 80 YEARS,
S/O.ANTONY, PADINJARE PARTTUKUDY HOUSE,
VAZHAKULAM VILLAGE, SOUTH VAZHAKULAM P.O.,
ALUVA-5.

BY ADV. SRI.A.T.ANILKUMAR
SRI.P.DALBI EMMANUEL

RESPONDENTS:

1. THE EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, PERUMBAVOOR.
2. DEPUTY TAHASILDAR, RR,
TALUK OFFICE, KUNNATHUNADU TALUK,
PERUMBAVUR.
3. VILLAGE OFFICER, VAZHAKULAM VILLAGE,
SOUTH VAZHAKULAM P.O.

R1 BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB
R2 AND R3 BY G.P. SRI.S BASANT BALAJI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE SALE DEED BEARING NO. 193 OF 1984

EXT.P2 TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 2ND AND 3RD RESPONDENT
DATED 19.1.2007

EXT.P3 TRUE COPY OF THE PLAINT IN OS NO. 100 OF 1993

EXT.P4 TRUE COPY OF THE WRITTEN STATEMENT IN OS 100 OF 1993

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 7614 OF 2007

Dated this the 25th day of June, 2007

JUDGMENT

Heard counsel for the petitioner and standing counsel for the KSEB. Petitioner is a 80 year old man who had taken electric connection before 1985. Supply was disconnected in 1985 and installation was dismantled in 1988. Arrears payable is fixed charges of Rs. 1500/- and current charges of Rs. 2969/-. Even though petitioner first raised limitation as a ground to challenge the recovery proceedings, standing counsel submitted that petitioner filed a suit in 1993 which was pending in civil court for 8 years which led to delay in initiation of recovery proceedings. The total charges payable was Rs. 4469/-. I do not think petitioner can raise the question of limitation after keeping the matter in civil court for 8 years. Suit is now dismissed. In the circumstances, the challenge against recovery is rejected. However, this Court granted interim direction on 10.4.2007 to the petitioner to deposit Rs. 4500/- as a condition for stay. Counsel for the petitioner submitted that petitioner has no financial capacity to

pay the said amount. I do not think any purpose will be served by keeping the W.P. pending. Having regard to the fact that liability pertains to 1985, I feel petitioner can be granted waiver of surcharge provided actual liability is paid before 31.7.2007. W.P. is accordingly disposed of refixing the total liability at Rs. 4500/-, provided petitioner makes payment on or before 31.7.2007. If the petitioner does not make payment, the entire arrears will be recovered with collection charges after 31.7.2007 as the challenge against the demand is untenable.

(C.N.RAMACHANDRAN NAIR)
Judge

